

ASSEMBLY BILL

No. 1044

Introduced by Assembly Member Negrete McLeod

February 20, 2003

An act to amend Sections 11106 and 12051 of the Penal Code, relating to licenses to carry firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1044, as introduced, Negrete McLeod. Licenses to carry firearms.

Existing law requires the Attorney General to maintain a registry of information reported to the Department of Justice regarding firearms, and including, among other things, copies of applications for licenses to carry firearms.

This bill would recast those provisions to instead, require the registry include copies of the licenses to carry firearms. This bill would make other technical changes.

Existing law specifies requirements and provides a procedure for obtaining a license to carry a firearm. Existing law also provides for a committee convened by the Attorney General to develop a standard application form for these licenses. Existing law authorizes the Attorney General to adopt and enforce regulations relative to these licenses.

This bill would recast those provisions relating to the committee to authorize it to review and revise the license application form. The bill would also delete the provisions authorizing the Attorney General to adopt and enforce regulations relative to the licenses, and would provide instead that the license application forms are deemed a local agency form exempt from the Administrative Procedures Act. This bill

would authorize licensing agencies to destroy the applications of individuals who are denied a license, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11106 of the Penal Code is amended to
2 read:

3 11106. (a) In order to assist in the investigation of crime, the
4 prosecution of civil actions by city attorneys pursuant to paragraph
5 (3) of subdivision (c), the arrest and prosecution of criminals, and
6 the recovery of lost, stolen, or found property, the Attorney
7 General shall keep and properly file a complete record of all copies
8 of fingerprints, copies of ~~applications for~~ licenses to carry firearms
9 issued pursuant to Section 12050, information reported to the
10 Department of Justice pursuant to Section 12053, dealers' records
11 of sales of firearms, reports provided pursuant to Section 12072 or
12 12078, forms provided pursuant to Section 12084, reports
13 provided pursuant to Section 12071 that are not dealers' records
14 of sales of firearms, and reports of stolen, lost, found, pledged, or
15 pawned property in any city or county of this state, and shall, upon
16 proper application therefor, furnish *this information* to the officers
17 ~~mentioned referred to~~ in Section 11105, ~~hard copy printouts of~~
18 ~~those records as photographic, photostatic, and nonerasable~~
19 ~~optically stored reproductions.~~

20 (b) (1) Notwithstanding subdivision (a), the Attorney General
21 shall not retain or compile any information from reports filed
22 pursuant to subdivision (a) of Section 12078 for firearms that are
23 ~~not pistols, revolvers, or other firearms capable of being concealed~~
24 ~~upon the person~~ *handguns*, from forms submitted pursuant to
25 Section 12084 for firearms that are ~~not pistols, revolvers, or other~~
26 ~~firearms capable of being concealed upon the person~~ *handguns*, or
27 from dealers' records of sales for firearms that are ~~not pistols,~~
28 ~~revolvers, or other firearms capable of being concealed upon the~~
29 ~~person~~ *handguns*. All copies of the forms submitted, or any
30 information received in electronic form, pursuant to Section
31 12084 for firearms that are ~~not pistols, revolvers, or other firearms~~
32 ~~capable of being concealed upon the person~~ *handguns*, or of the
33 dealers' records of sales for firearms that are ~~not pistols, revolvers,~~

1 ~~or other firearms capable of being concealed upon the person~~
2 *handguns* shall be destroyed within five days of the clearance by
3 the Attorney General, unless the purchaser or transferor is
4 ineligible to take possession of the firearm. All copies of the
5 reports filed, or any information received in electronic form,
6 pursuant to subdivision (a) of Section 12078 for firearms that are
7 ~~not pistols, revolvers, or other firearms capable of being concealed~~
8 ~~upon the person~~ *handguns* shall be destroyed within five days of
9 the receipt by the Attorney General, unless retention is necessary
10 for use in a criminal prosecution.

11 (2) A peace officer, the Attorney General, a Department of
12 Justice employee designated by the Attorney General, or any
13 authorized local law enforcement employee shall not retain or
14 compile any information from a firearms transaction record, as
15 defined in paragraph (5) of subdivision (c) of Section 12071, for
16 ~~firearms that are not pistols, revolvers, or other firearms capable~~
17 ~~of being concealed upon the person~~ *handguns* unless retention or
18 compilation is necessary for use in a criminal prosecution or in a
19 proceeding to revoke a license issued pursuant to Section 12071.

20 (3) A violation of this subdivision is a misdemeanor.

21 (c) (1) The Attorney General shall permanently keep and
22 properly file and maintain all information reported to the
23 Department of Justice pursuant to Sections 12071, 12072, 12078,
24 12082, and 12084 or any other law, as to ~~pistols, revolvers, or other~~
25 ~~firearms capable of being concealed upon the person~~ *handguns*
26 and maintain a registry thereof.

27 (2) The registry shall consist of all of the following:

28 (A) The name, address, identification of, place of birth (state or
29 country), complete telephone number, occupation, sex,
30 description, and all legal names and aliases ever used by the owner
31 or person being loaned the particular ~~pistol, revolver, or other~~
32 ~~firearm capable of being concealed upon the person~~ *handgun* as
33 listed on the information provided to the department on the
34 Dealers' Record of Sale, the Law Enforcement Firearms Transfer
35 (LEFT), as defined in Section 12084, or reports made to the
36 department pursuant to Section 12078 or any other law.

37 (B) The name and address of, and other information about, any
38 person (whether a dealer or a private party) from whom the owner
39 acquired or the person being loaned the particular ~~pistol, revolver,~~
40 ~~or other firearm capable of being concealed upon the person~~

1 *handgun* and when the firearm was acquired or loaned as listed on
2 the information provided to the department on the Dealers' Record
3 of Sale, the LEFT, or reports made to the department pursuant to
4 Section 12078 or any other law.

5 (C) Any waiting period exemption applicable to the transaction
6 which resulted in the owner of or the person being loaned the
7 particular ~~pistol, revolver, or other firearm capable of being~~
8 ~~concealed upon the person~~ *handgun* acquiring or being loaned that
9 firearm.

10 (D) The manufacturer's name if stamped on the firearm;,
11 model name or number if stamped on the firearm; and, if
12 applicable, the serial number, other number (if more than one
13 serial number is stamped on the firearm), caliber, type of firearm,
14 if the firearm is new or used, barrel length, and color of the firearm.

15 (3) Information in the registry referred to in this subdivision
16 shall, upon proper application therefor, be furnished to the officers
17 referred to in Section 11105, to a city attorney prosecuting a civil
18 action, solely for use in prosecuting that civil action and not for any
19 other purpose, or to the person listed in the registry as the owner
20 or person who is listed as being loaned the particular ~~pistol,~~
21 ~~revolver, or other firearm capable of being concealed upon the~~
22 ~~person in the form of hard copy printouts of that information as~~
23 ~~photographic, photostatic, and nonerasable optically stored~~
24 ~~reproductions~~ *handgun*.

25 (4) If any person is listed in the registry as the owner of a
26 firearm through a Dealers' Record of Sale prior to 1979, and the
27 person listed in the registry requests by letter that the Attorney
28 General store and keep the record electronically, as well as in the
29 record's existing photographic, photostatic, or nonerasable
30 optically stored form, the Attorney General shall do so within three
31 working days of receipt of the request. The Attorney General shall,
32 in writing, and as soon as practicable, notify the person requesting
33 electronic storage of the record that the request has been honored
34 as required by this paragraph.

35 SEC. 2. Section 12051 of the Penal Code is amended to read:
36 12051. (a) (1) ~~Applications for licenses shall be filed in~~
37 ~~writing, signed by the applicant, and shall state~~ *The standard*
38 *application form for licenses described in paragraph (3) shall*
39 *require information from the applicant including, but not limited*
40 *to, the name, occupation, residence and business address of the*

1 applicant, his or her age, height, weight, color of eyes and hair, and
 2 reason for desiring a license to carry the weapon. *Applications for*
 3 *licenses shall be filed in writing, and signed by the applicant.* Any
 4 license issued upon the application shall set forth the ~~foregoing~~
 5 ~~data~~ *licensee's name, occupation, residence and business address,*
 6 *his or her age, height, weight, color of eyes and hair, the reason for*
 7 *desiring a license to carry the weapon,* and shall, in addition,
 8 contain a description of the weapon or weapons authorized to be
 9 carried, giving the name of the manufacturer, the serial number,
 10 and the caliber. The license issued to the licensee may be
 11 laminated.

12 (2) Applications for amendments to licenses shall be filed in
 13 writing and signed by the applicant, and shall state what type of
 14 amendment is sought pursuant to subdivision (f) of Section 12050
 15 and the reason for desiring the amendment.

16 (3) (A) Applications for amendments to licenses, applications
 17 for licenses, amendments to licenses, and licenses shall be uniform
 18 throughout the state, upon forms to be prescribed by the Attorney
 19 General. The Attorney General shall convene a committee
 20 composed of one representative of the California State Sheriffs'
 21 Association, one representative of the California Police Chiefs'
 22 Association, and one representative of the Department of Justice
 23 to ~~develop a review, and as deemed appropriate, revise the~~
 24 ~~standard application form for licenses.~~ *The committee shall meet*
 25 *for this purpose if two of the committee's members deem that*
 26 *necessary.* The application shall include a section summarizing the
 27 statutory provisions of state law that result in the automatic denial
 28 of a license. ~~The Attorney General shall adopt and implement this~~
 29 ~~standard application form for licenses on or before July 1, 1999.~~

30 (B) The forms shall contain a provision whereby the applicant
 31 attests to the truth of statements contained in the application.

32 (C) An applicant shall not be required to complete any
 33 additional application or form for a license, or to provide any
 34 information other than that necessary to complete the standard
 35 application form described in subparagraph (A), except to clarify
 36 or interpret information provided by the applicant on the standard
 37 application form.

38 ~~(D) The Attorney General may adopt and enforce regulations~~
 39 ~~that are necessary, appropriate, or useful to interpret and~~
 40 ~~implement this paragraph pursuant to Chapter 3.5 (commencing~~

1 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~
2 ~~Government Code. Pending the adoption of those regulations, the~~
3 ~~Attorney General may adopt emergency regulations that shall~~
4 ~~become effective immediately. The adoption of the emergency~~
5 ~~regulations shall be subject to Chapter 3.5 (commencing with~~
6 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
7 ~~Code, and the emergency regulations shall only be effective until~~
8 ~~June 30, 1999, or on the effective date of the regulations adopted~~
9 ~~by the Attorney General to implement this paragraph, whichever~~
10 ~~occurs first, at which time the emergency regulations shall be~~
11 ~~deemed to be repealed. The standard application form described~~
12 ~~in subparagraph (A) is deemed to be a local form expressly exempt~~
13 ~~from the requirements of the Administrative Procedures Act,~~
14 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of~~
15 ~~Division 3 of Title 2 of the government Code.~~

16 (b) Any person who files an application required by
17 subdivision (a) knowing that statements contained therein are false
18 is guilty of a misdemeanor.

19 (c) Any person who knowingly makes a false statement on the
20 application regarding any of the following shall be guilty of a
21 felony:

22 (1) The denial or revocation of a license, or the denial of an
23 amendment to a license, issued pursuant to Section 12050.

24 (2) A criminal conviction.

25 (3) A finding of not guilty by reason of insanity.

26 (4) The use of a controlled substance.

27 (5) A dishonorable discharge from military service.

28 (6) A commitment to a mental institution.

29 (7) A renunciation of United States citizenship.

30 (d) *Applications from individuals who are denied a license*
31 *may, upon final legal disposition of the denial, be destroyed by the*
32 *licensing agency.*